

ZONING BY-LAWS

Town of Montague



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Effective: January 30, 2014

ZONING BY-LAWS OF THE TOWN OF MONTAGUE

January 30, 2014

SECTION 1. PURPOSE

3/21/70

The purpose of this By-Law shall be to promote the welfare of the inhabitants of the Town of Montague; to conserve the value of land and buildings; to encourage the appropriate use of land throughout the town; to preserve and increase its amenities; and to provide for the Town the protection authorized by the General Laws, Chapter 40 A, as amended.

Adopted at Town Meeting; March 21, 1970

Amended at Town Meeting;

March 24, 1973	3/24/73
June 16, 1973	6/16/73
November 15, 1973	11/15/73
May 4, 1974	5/4/74
May 5, 1979	5/5/79
October 4, 1979	10/4/79
October 3, 1981	10/3/81
May 1, 1982	5/1/82
May 4, 1985	5/4/85
June 12, 1986	6/12/86
December 4, 1986	12/4/86
March 17, 1988	3/17/88
November 14, 1991	11/14/91
March 12, 1992	3/12/92
March 4, 1996	3/4/96
May 3, 1997	5/3/97
November 17, 1999	11/17/99
May 6, 2000	5/6/00
May 5, 2001	5/5/01
May 4, 2002	5/4/02
May 3, 2003*	5/3/03
May 1, 2004	5/1/04
April 1, 2010	4/1/10
January 6, 2011	1/6/11
October 20, 2011	10/20/11
May 4, 2013	5/4/13
January 30, 2014	1/30/14

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Editorial Notations

Editorial notations have been added in bracketed text to assist in reference and the use of these By-laws. The notations are added for clarification and ease of use and may not be the actual text of the law (see below for the distinctions). Further research or official interpretations may be required to determine applicability, intent, and the degree of application of preexisting law.

00/00/00 Dates placed after a section or sub-section heading or inserted in text in {brackets} are the dates of a town meeting action.

0.0.0 Section numbers are as Town Meeting passed them. By-law changes passed without a section number have been inserted under appropriate sections and assigned a sub-section number without further notation.

* by-law text * Text bracketed with asterisks has been officially adopted but is included in a related section for clarity and ease of reference. Notation of the actual section number is added.

** editorial insertion ** Information bracketed with double asterisks are editorial statements highlighting and clarifying a town meeting action.

{Information} Information in brackets provides a cross-reference to original or related text or may add a word or phrase for clarification, or provide a date of a town meeting action.

(Section #) Parentheses are part of the bylaw or direct the user to the full section text.

SECTION 2. DEFINITIONS

6/16/73

In this By-Law the following terms shall have the meaning here assigned to them:

ACCESSORY APARTMENT-- A separate living space within an owner-occupied single-family dwelling. The space shall be considered an accessory apartment and shall not be considered a separate dwelling unit if:

- the space is less than 700 square feet in area;
- the space contains only one bedroom; and,
- the space is smaller in floor area than the remainder of the house. { see 7.4} 5/4/96

BUILDING--An enclosed structure, either a principal building or shed, garage, stable, greenhouse, or other accessory building.

BUILDING, PRINCIPAL--a building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING, ACCESSORY--any subordinate building located on the same lot with the principal building or use, the use of which is customarily incidental to that of the main building or to use of the land. Any accessory structure shall not include any structures which are attached to the principal building.

BUILDING HEIGHT--Shall mean the vertical distance from the mean finished grade of the ground adjoining the building to the highest point of the roof for flat or shed roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs. Not included are spires, cupolas, TV antennae, or other parts of structures which do not enclose potentially habitable floor space.

CAMPER--shall mean a portable dwelling eligible to be registered and insured for highway use, and designed to be used for travel, recreational and vacation use, but not for permanent residence; and included equipment commonly called travel trailers, pickup coaches or campers, motorized campers and tent trailers, but no mobile homes.

CAMPGROUND--shall mean premises used for campers, tenting, or for temporary overnight facilities of any kind where a fee is charged.

DRIVE-THROUGH—shall mean the provision of retail sales or services to customers who remain in their vehicles. 5/5/01

DWELLING--shall mean a building designed or used exclusively as the living quarters for one (1) or more families.

DWELLING UNIT--shall mean living quarters for a single family plus not more than two (2) boarders or lodgers, with cooking, living sanitary and sleeping facilities, independent of any other unit.

FAMILY--any number of individuals related by blood, marriage, or law or not more than five (5) individuals not so related, living together, as a single housekeeping unit. Groups of more than five (5) unrelated individuals living together as a single housekeeping unit shall be considered to be multiple families.

LODGING HOUSE--shall mean living quarters, accommodating more than five unrelated individuals, whether as a licensed lodging house, dormitory, co-op, commune or similar arrangement.

LOT--shall mean an area of land in one ownership, with definite boundaries used, or available for use, as the site of one or more buildings.

MOBILE HOME--shall mean a dwelling built on a chassis, brought to the site containing complete electrical, plumbing, and sanitary facilities, and designed without necessity of a permanent foundation for a year round living.

MOBILE HOME PARK--shall mean premises planned and improved for the rental of spaces for three or more mobile homes.

OPEN RECREATIONAL ENTERPRISE--shall include golf courses, ski facilities, picnic areas, or similar activities not including camping and with structures and paving covering not more than 5% of lot area.

REGISTERED MARIJUANA DISPENSARY (RMD):--A Medical Marijuana Treatment Center as defined in 105 CMR 725.004 and regulated in 105 CMR 725.100. 1/30/14

SELF-SERVICE STORAGE FACILITY: A business establishment consisting of a structure or group of structures containing separate storage spaces leased to for storage of goods, products, materials or other objects. 5/3/03

SIGN--shall mean any device designed to inform or attract attention of persons not on the premises on which it is located, but not including traffic directional signs or signs erected by public agencies.

SIGN AREA--shall mean the surface area within a single continuous perimeter enclosing all the display area of the sign, but not including structural members not bearing advertising matter, unless internally or decoratively lighted. One side only of flat, back-to-back signs shall be counted.

SOLAR ENERGY INSTALLATION--Solar energy panels and supporting equipment for the capture and storage of heat or the generation of electricity and further defined as:

Accessory Installations:

(a) Any roof or building-mounted Solar Energy Installation located on a roof or as a part of a building.

(b) A ground-mounted Solar Energy Installation supporting on-site energy needs.

SOLAR ENERGY FACILITY: A ground-mounted Solar Energy Installation that exceeds 2,000 square feet of panel surface area.

Solar Energy Installations and Facilities shall not constitute a Public Utility for the purposes of this bylaw. {see 7.9} 10/20/11

TELECOMMUNICATION FACILITIES--includes towers, antennas, buildings and accessory structures designed or modified to provide personal communications services, radio and television broadcast or reception, microwave communications, or similar communication services. Not included are antennas used for personal television and radio reception or radio facilities actively used under a FCC (Federal Communication Commission) amateur radio license. A Telecommunication Facility shall be considered a Public Utility for the purposes of this By-Law. {see 7.5} 5/3/97

TRAILER--shall mean a mobile home, or camper, or similar vehicle for non-residential use.

SECTION 3. ADMINISTRATION

6/16/73

3.1 Building and Construction Permits

No building or in-ground swimming pool shall be built, located or externally altered in size, or shape, and no use of land or a building shall be begun or changed without a permit having been issued by the Planning Board or its designated agent; provided, however, that no permit shall be issued for such construction, alteration or use of any structure or building in violation of any provisions of this By-Law.

3.2 Enforcement

This By-Law shall be enforced by the Selectmen or appointed representative of the Selectmen, only after a written complaint is filed with the Selectmen by a citizen of the town. Any person violating any of the provisions of this By-Law may be fined not more than twenty dollars for each offense. Each day that such violation continues shall constitute a separate offense.

3.3 Board of Appeals

There is hereby established a Board of Appeals of five members and three associate members, to be appointed by the Selectmen, which Board of Appeals shall act on all matters within its jurisdiction under this By-Law, and Chapter 40A of the General Laws in the manner prescribed by the said law and this By-Law.

3.4 Hearings

In matters pertaining to this By-Law, the Board of Appeals may require interested parties to appear before them and also may require the applicant to submit for their consideration drawings, plans, specifications, land surveys, location maps, or certified statements as they feel necessary to arrive at sound decisions or to safeguard the public interest.

3.5 Associate Member of the Planning Board

3/12/92

There is hereby established the position of Associate Member of the Planning Board, to be appointed by the Selectmen for a term of one year, who shall act on all matters within his or her jurisdiction under this by-law and under Chapter 40A of the Massachusetts General Laws.

3.6 Amendment

This By-Law may be amended from time to time at any annual or special town meetings in accord with the provisions of Section 6 *(now Section 5)* of Chapter 40A, General Laws.

3.7 Validity

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

SECTION 4. ESTABLISHMENT OF DISTRICTS

3/21/70

4.1 Types of Districts.

For purpose of this By-Law, the Town of Montague is hereby divided into the following types of use districts:

AF	Agricultural-Forestry	
AF-2	Agricultural-Forestry-2	5/4/85
AF-4	Agricultural-Forestry-4	10/4/79
RE	Recreation-Education	
RS	Residential	
	(Reserved for future use)	10/20/11
GB	General Business	
ID	Industrial	
PS	Public-Semipublic	
UN	Unrestricted	
FP	Flood Plain	5/5/79 10/4/79
NB	Neighborhood Business	11/17/99
CB	Central Business	11/17/99
HI	Historic Industrial	5/5/01
RB	Rural Business	5/5/01
AB	Agricultural Business	5/3/03
WSP	Water Supply Protection	11/14/92

The Flood Plain District is herein established as an overlay district. {section 5.2.9}

The Agricultural Business District is herein established as an overlay district and shall be superimposed on other districts. {Section 5.2.14}

The WSP District is an overlay district and shall be superimposed on the other districts.{9.2}

4.2 Location of Districts.

3/21/70

Said Districts are located and bounded as shown on a map entitled, " Protective Land Use Regulations Map of Montague, Mass." dated February 4, 1970 *(ZONING MAP Town of MONTAGUE)* and the detailed land use districts maps of each section on file in the office of the Town Clerk.

* Flood Plain District {Section 5.2.9}

10/4/79

The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Town of Montague Flood Insurance Rate Maps, and the Flood Boundary and Floodway Maps, dated August 15, 1979, "As amended by the Federal Emergency Management Agency February 12, 1982" {5/1/82}, on file with the Town Clerk, Planning Board and Building Commissioner. These maps as well as the accompanying Town of Montague Flood Insurance Study are incorporated herein by reference. *

**** Agriculture-Forestry-4 District (AF-4) (Section 5.2.1)**

10/4/79

is all land mapped as AF in Plats 34, 35, 45, 46, 52, & 53 and 17, 18, 25, & 28 of the Zoning Map (March 1975) of the Town of Montague. **

**** Agriculture-Forestry-2 District (AF-2) (Section 5.2.1)**

5/4/85

is land mapped as AF in plats 41, 42, 43, 47, & 48 of the Zoning Map of the Town of Montague located north of a line running 500' south of Kells Road and East Taylor Hill Road, east of a line running 1000' west of Taylor Hill Road, south of a line 500' north of North Taylor Hill Road and Court Square and west of the line of Main Street, School Street, Old Sunderland Road, and Main Street. **

Agricultural Business District (AB) (Section 5.2.14)

5/3/03

shall consist of those areas designated on the Agricultural Business District Map dated May 3, 2003, on file in the office of the Town Clerk. This District is configured to include those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farmland forming discrete blocks, and lack of protection under existing zoning, comprise the critical agricultural areas of the Town of Montague.

*** Water Supply Protection District (Section 9)**

11/14/92

*The Water Supply Protection District is an overlay district and shall be superimposed on the other districts established by the Zoning Bylaw. * {Section 9.2}

**The district consists of the areas which are within either: {see 9.3 & 9.4}(1/6/11)

- 1) The **Aquifer Recharge Area** for the Turners Falls Public Water Supply Tolan Wells mapped in the hydrological study by Dufresne-Henry; and the Hannegan Brook Well; or,
- 2) The **Interim Wellhead Protection Area** encompassed by a 2640 foot radius from the Montague Center Public Water Supply Well; or

**** ZONING MAP Town of MONTAGUE as amended at Town Meeting; ****

Map Changes		District Changes	
11/15/73	map 4	5/ 5/79	FP District {repealed}
5/04/74	map 23	10/ 4/79	AF-4 & FP District
5/07/77	maps 17, 18	5/ 1/82	FIRM maps
5/05/79	map 5	5/ 4/85	AF-2
11/29/79	map 4	11/14/92	Section 9 WSP District
8/11/83	map 20, 29,10	11/17/99	NB & CB Districts
9/ 1/83	map 22	5/ 5/01	HI & RB Districts
6/12/86	map 3	5/ 3/03	AB District
12/ 4/86	maps 14, 5	1/ 6/11	WSP - Hannegan Brook Well
3/17/88	maps 12, 13, 20	10/20/11	Delete LB..Limited Business
3/ 9/89	map 12		
5/ 6/89	map 32		
10/19/89	maps 39, 40, 32		
3/12/92	map 3		
6/ 3/95	map 18		
11/17/99	map 3, 4, 7, 11, 12, 13, 19, 29, 30		
5/5/01	map 2, 3, 5 and 30, 34, 40, 44, 48, 49, 51, 52		
10/9/02	map 28		
5/ 1/04	map 12, 19		

WSP...Water Supply Protection District Maps

Turners Falls Water District - Tolan Wells & Montague Center Water District Well

WSP...Water Supply Protection District Maps

Turners Falls Water District Hannegan Brook Public Well

AB...Agricultural Business District Map

{ This map is for guidance only. The parcel list defines the AB District }

5.1. Existing Uses, Structures, and Lots

5.1.1

The lawful use of any structure of land existing at the enactment or subsequent amendment of this by-law may be continued although such structure or use does not conform with the provisions of this by-law, subject, however, to the following exceptions:

5.1.2 Restoration.

In any event that a non-conforming structure is destroyed by fire or other natural cause, the same may be reconstructed or repaired at the same location for the same non-conforming use, provided the new building will be equal in appearance and character to the original structure and that such construction is commenced within 24 months from the occurrence of such natural cause.

5.1.3 Abandonment.

A non-conforming use which has been abandoned for a period of 24 months shall not be re-established except in the case of land used for agriculture, horticulture, or floriculture where such non-use shall have existed for a period of five (5) consecutive years.

5.1.4 Alterations.

No non-conforming use shall be changed or extended, and no non-conforming building or structure shall be altered or replaced by a new building, except as authorized in Sections 5.1.2 and 5.1.3, unless granted a Special Permit by the Board of Appeals upon that board's determination that such construction, alteration or replacement will neither bring substantial detriment to the environs or to the town, nor depart from the purpose and intent of this by-law. {in WSP see 9.8}

5.1.5

12/3/81

No land within the Town of Montague may be used for the collection, treatment, storage, burial, incineration or disposal of radioactive wastes, including but not limited to low-level waste.

5.2. Permitted Uses and Special Permits

6/16/73

5/6/00

(a) Permitted Uses in all Districts:

11/17/99

Agriculture and forestry on more than five acres of land

5/6/00

Religious, educational, governmental services

(b) Special Permits:

Where any use is "allowed on Special Permit from the Board of Appeals:" or "allowed on Special Permit from the Planning Board:" said Boards may grant such Special Permit subject to appropriate conditions and safeguards if necessary provided that it finds that such permitted use will not be of substantial harm to the neighborhood, or to the natural resources or infrastructure of the Town {5/6/00}, will not derogate from the intent of the by-law and that nuisance, hazard or congestion will not be created by the issuance thereof.

{For additional Special Permit uses and conditions see Sections 6, 7, and 9}

(c) Environmental Impact and Site Plan Review: 5/6/00 5/5/01 10/20/11

All uses that involve the construction or alteration or change of use {5/5/01} of over 5,000 square feet of floor area or the development of over 130,680 square feet (3 acres) of land or Solar Energy Facility {10/20/11} shall be subject to Environmental Impact and Site Plan Review as outlined in Section 8 of this bylaw. Environmental Impact and Site Plan Review shall be conducted by the Board of Appeals unless otherwise stated.

(d) Procedures: 5/6/00

All applications for Special Permits and Environmental Impact and Site Plan Review from the Board of Appeals or the Planning Board shall be subject to the procedural requirements established by the respective Board.

The Board of Appeals or Planning Board may determine that the assistance of outside professional expertise is required due to the size, scale or complexity of a given project or its potential impact on the health, safety and welfare of the Town. When outside review is determined to be necessary, the Board may require that the applicant pay all reasonable expenses for this purpose, in accordance with that Board's regulations and M.G.L. Chapter 44 Section 53G.

5.2.1 AF..*AF-2*..*AF-4*..Agricultural--Forestry Districts 5/4/85 10/4/79 {see 4.1 & 4.2}

(a) Permitted Uses:

One family dwellings 10/4/79 3/17/8
Farming and Forestry
Uses customarily accessory to the above

(b) Uses allowed on Special Permit from the Board of Appeals:

Two family dwelling 11/14/92
Earth Removal
Open recreational enterprise
Non-profit club or lodge
Public Utility
Other non-business uses if similar to the above in externally observable attributes and compatibility with residential environs.

5.2.2 RE..Recreation--Education Districts

(a) Permitted Uses:

Religious, educational, governmental services

(b) Uses allowed on Special Permit from the Board of Appeals:

Open recreational enterprise
Non-profit club or lodge
Solar Energy Facility, in accordance with Section 7.9 10/20/11
Public Utility
Golf course or Country Club
Other recreational or educational uses similar to the above.

5.2.3 RS..Residential Districts

- (a) Permitted Uses:
- | | |
|--|---------|
| One family dwellings | 3/17/88 |
| Uses customarily accessory to the above. | |
- (b) Uses allowed on Special Permit from the Board of Appeals:
- | | |
|--|---------|
| Two family dwelling | 11/3/92 |
| Commercial horticulture on 5 acres or less | 5/6/00 |
| Open recreational enterprise | |
| Non-profit club or lodge | |
| Public Utility | |

5.2.4 (Reserved for future use) *deleted 10/20/11*

5.2.5 GB..General Business Districts

- (a) Permitted Uses:
- | | |
|--|--------|
| Business office or professional office, no more than 5,000 square feet of floor area or three acres of land. | 5/6/00 |
| Retail sales and services, no more than 5,000 square feet of floor area or three acres of land. | 5/6/00 |
| Horticulture | 5/6/00 |
| Non-profit club or lodge | |
| Uses customarily accessory to the above. | |
- (b) Uses allowed on Special Permit from the Board of Appeals:
- | | | |
|--|---------|--------|
| One family dwellings | 3/17/88 | 5/1/04 |
| Two family dwelling | 11/4/92 | |
| Motel or hotel | 5/6/00 | |
| Retail sales and services that involve construction or alteration of over 5,000 square feet of floor area or the development of over 130,680 square feet (3 acres) of land. | 5/6/00 | |
| Business office or professional office that involve construction or alteration of over 5,000 square feet of floor area or the development of over 130,680 square feet (3 acres) of land. | 5/6/00 | |
| Lodging House | | |
| Earth removal | | |
| Open recreational enterprise | | |
| Multi-family dwelling | | |
| Public Utility | 5/3/97 | |
| Registered Marijuana Dispensary, in accordance with Section 7.10 | 1/30/14 | |
| Other non-industrial uses if similar to the above in externally observable attributes. | | |
- (c) Uses allowed on Special Permit from the Planning Board:
- | | |
|---|--------|
| Self-service storage facility, in accordance with Section 7.7 | 5/3/03 |
|---|--------|

5.2.6 ID..Industrial Districts

- (a) Permitted Uses: 5/6/00
Business office or professional office
Manufacturing, processing, or research
Bulk storage, warehousing, distribution
Solar Energy Facility, in accordance with Section 7.9 10/20/11
Uses customarily accessory to the above.
- (b) Uses allowed on Special Permit from the Board of Appeals:
Retail sales and services 5/6/00
Motel or hotel 5/6/00
Earth removal
Open recreational enterprise
Public Utility 5/3/97
Registered Marijuana Dispensary, in accordance with Section 7.10 1/30/14
Other uses similar to the above in externally observable attributes.
- (c) Uses allowed on Special Permit from the Planning Board: 12/4/86 5/6/00
All uses in Section (a) that involve the construction or alteration of over 10,000 square feet of floor area or the development of over 217,800 square feet (5 acres) of land.
Solar Energy Facility exceeding 130,680 (3 Acres) of land. 10/20/11
Self-service storage facility, in accordance with Section 7.7 5/3/03
- (d) Uses Subject to Environmental Impact and Site Plan Review from the Planning Board:
All uses covered in Section (a) that involve the construction or alteration of over 5,000 square feet of floor area or the development of over 130,680 square feet (3 acres) of land or a Solar Energy Facility. { 10/20/11 }

5.2.7 PS..Public--Semi-Public Districts.

- (a) Permitted Uses:
Cemeteries
- (b) Uses allowed by Special Permit from the Board of Appeals:
Public Utility

5.2.8 UN..Unrestricted Districts.

- (a) Permitted Uses:
Any use otherwise lawful and in conformity with this by-law.
- (b) Uses allowed by Special Permit from the Board of Appeals:
Solar Energy Facility, in accordance with Section 7.9 10/20/11
Public Utility

5.2.9 FP..Flood Plain District.

5/5/79 10/4/79

The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains.

Development Regulations -The following requirements apply in the Flood Plain District:

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM {Flood Insurance Rate Maps}, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- (b) In the Floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 - (1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood.
 - (2) Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.

5.2.10 NB..Neighborhood Business District

11/17/99

The purpose of the Neighborhood Business District is to ensure compatibility of business and residential uses.

- (a) Permitted Uses, in accordance with Section 7.6(a):
 - One and two family dwelling
 - Retail sales and service
 - Business office or professional office
 - Craft workshop or light assembly shop
 - Uses customarily accessory to the above.
- (b) Uses allowed on Special Permit from the Board of Appeals, in accordance with Section 7.6(b):
 - Multi-family dwelling
 - Lodging house
 - Non-profit club or lodge
 - Parking lot or parking garage
 - Public utility
 - Drive-through or loading dock

5/5/01

Other non-industrial uses if similar to the above in externally observable attributes and compatibility with residential environs.

5.2.11 CB..Central Business District

11/17/99

The purpose of the Central Business District is to provide for pedestrian-oriented downtown areas with mixed-use buildings and a range of retail and commercial services.

(a) Permitted Uses:

Mixed use, with one- and two-family dwelling as an accessory use, with the street level devoted to commercial use.

Retail sales and services of 10,000 square feet or less of floor area.

Business office or professional office

Non-profit club or lodge

Uses customarily accessory to the above.

(b) Uses allowed on Special Permit from the Board of Appeals:

Mixed use, with:

Multi-family dwelling or lodging house, with street level devoted to commercial use and all dwelling units above street level; such residential uses shall be accompanied by a management plan approved by the Board of Appeals for the dwelling units.

Retail sales and services that involve construction or alteration of more than 10,000 square feet of floor area. 5/6/00

Craft workshop or light assembly shop, with retail component

Hotel

Public utility

Parking lot or parking garage

Drive-through or loading dock 5/5/01

Registered Marijuana Dispensary, in accordance with Section 7.10 1/30/14

Other uses similar to the above in externally observable attributes.

5.2.12 HI..Historic Industrial District

5/5/01

The purpose of the Historic Industrial District is to encourage adaptive reuse of historic industrial buildings and sites.

(a) Permitted Uses:

Business office or professional office

Retail sales and services

Manufacturing, processing, or research

Bulk storage, warehousing, distribution

Craft workshop or light assembly shop

Uses customarily accessory to the above.

(b) Uses allowed on Special Permit from the Board of Appeals:

New structures

5/1/04

Alteration to the exterior of an existing structure

5/1/04

Hotel

Residential uses, as accessory or secondary to a primary permitted use {5/1/04}, with management plan

Public utility

Uses that involve the construction, alteration or change of use of more than 10,000 square feet of floor area.

Solar Energy Facility, in accordance with Section 7.9 10/20/11

Demolition of an existing structure 5/1/04

Registered Marijuana Dispensary, in accordance with Section 7.10 1/30/14

Other uses similar to the above in externally observable attributes.

(c) Uses allowed on Special Permit from the Planning Board: 5/3/03

Self-service storage facility, in accordance with Section 7.7

5.2.13 RB..Rural Business District

5/5/01

The purpose of the Rural Business District is to allow small and natural resource-based businesses that are compatible with existing agricultural and residential uses and scenic character.

(a) Permitted Uses:

One family dwelling

Cumulative building area of up to 5000 square feet:

Agriculture and forestry

Retail sales and services

Craft workshop or light assembly shop

Open recreational enterprise

Uses customarily accessory to the above, including parking areas with up to 25 spaces to the rear or side of the principal building.

(b) Uses allowed on Special Permit from the Board of Appeals:

Two family dwelling

Multi-family dwelling up to 4 units, with management plan

Agricultural or forestry products processing

Business office or professional office

Motel

Earth removal

Loading dock

Public utility

Cumulative building area exceeding 5,000 square feet

Other uses similar to the above in externally observable attributes.

Loading dock, parking areas exceeding 25 spaces or exterior parking to the front (facing the street) of the principal building, if consistent with the purpose of the district. Drive-through not permitted.

(c) Uses allowed on Special Permit from the Planning Board: 5/3/03

Self-service storage facility, in accordance with Section 7.7

The purpose of the Agricultural Business District is to maintain the viability of agricultural businesses by conserving land with productive soils in large, contiguous blocks and minimizing conflicts between agricultural operations and residential uses, and to identify an area of town where other policies should be developed to promote and facilitate commercial agriculture.

(a) Permitted uses

All uses, dimensional requirements and other provisions of the Montague Zoning Bylaw applicable to the underlying districts shall remain in full force and effect, except where conflicting provisions are applied by the overlay zone. Any uses not permitted in the underlying district shall remain prohibited unless stated otherwise.

(b) Uses allowed on Special Permit from the Board of Appeals

All uses allowed on Special Permit from the Board of Appeals in the underlying district, with the exception that Earth Removal is not permitted except as accessory to agricultural uses.

(c) Uses allowed by Special Permit from the Planning Board

- The rendering impervious of more than 25% of the area of any single lot OR more than 21,780 square feet, whichever is less, for non-agricultural use.
- Back Lot Development, pursuant to Section 7.8.
- Municipal uses

(d) Special Permit Standards

Special Permits and Site Plan Approval for uses in the Agricultural Business District may be granted upon a finding by the Permit Granting Authority that the proposed use meets the following standards and is otherwise consistent with the purposes of this section and with the Montague Zoning Bylaws.

Proposed uses shall:

- Be located on areas of the site with soils least suitable for agriculture
- Minimize non-agricultural uses of prime and unique soils and soils of statewide and local importance
- Maximize the distance of non-agricultural uses from permanently protected farmland and active agricultural operations and use buffering to avoid conflicts
- Maximize the amount of contiguous farmland undisturbed by non-agricultural uses
- Minimize impact on agricultural infrastructure, including barns and other agricultural buildings, farm roads, drainage, irrigation, etc.
- Maintain views of open agricultural land from public ways
- Be designed so that non-agricultural structures are integrated into the landscape

{The following list is added as a use guideline to the WSP District. see: Section 9}

- (a) Permitted Uses: (Section 9.2)
All uses, dimensional requirements and other provisions of the Town of Montague Zoning Bylaw applicable to such underlying districts shall remain in force and effect, except that where the WSPD imposes greater or additional restrictions and requirements, such restrictions or requirements shall prevail. Any uses not permitted in the underlying districts shall remain prohibited.
- (b) Uses allowed by Special Permit from the Board of Appeals:
 - Special Permit uses applicable to underlying districts. (Section 9.2)
 - Standards for Special Permit (Section 9.7.3)
 - Non-conforming uses (Section 9.8)
- (c) Uses allowed on Special Permit from the Planning Board: (Section 9.5.2)
 - The rendering impervious of more than 20% of the area of any single lot.
 - Any use retaining less than 50% of the lot area, regardless of size, in its natural vegetative state with no more than minor removal of existing trees and vegetation.
 - Trucking or bus terminals.
 - Commercial car and other motor vehicle washes.
 - Commercial motor vehicle, airplane or boat repair.Procedures are specified in Section 9.7 Uses by Special Permit:
- (d) Restricted Uses: (Section 9.5.3)

5.3 Intensity Regulations

5.3.1

No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the following:

5.3.2

Multiple principle uses on one lot are permitted provided that the dimensional requirements of section 5.4 are met for each building without counting any area, frontage or minimum side yard or minimum front or rear {5/5/01} yard setback requirements twice. Setback requirements must be met for each building from property lines and from other building setback lines {5/5/01}. Not more than one principle building shall be erected on a lot unless each such building is served by accesses and services determined by the Planning Board to be functionally equivalent to those required for separate lots by the Planning Board in its Subdivision Regulation.

5.4 Dimensional requirements

5.4.1 Minimum lot area:

6/12/86

- (a) Single-family dwelling.....22,500 sq. ft.
Two-family dwelling.....45,000 sq. ft.
Multi-family use.....45,000 sq. ft.
plus 22,500 sq. ft. per dwelling unit in excess of two. 5/4/96
- (b) Notwithstanding the requirements of (a) the following minimum area requirements apply:
5/4/96
 - AF-2.....Two Acres 5/4/85
 - AF-4.....174,240 sq. ft. (4 acres) 10/4/79
 - CB & NB.....10,000 sq. ft. single-family dwelling 11/17/99
15,000 sq. ft. two-family dwelling
 - RB.....One Acre for non-agricultural uses 5/5/01
Two Acres for multi-family use
- (c) Exceptions to the above requirements in (a) and (b) may be allowed by Special Permit from the Zoning Board of Appeals where public water and sewer lines are available for residential use. 5/4/96

- (d) *In areas within the WSP District which are not served by municipal sewerage systems, the minimum allowable lot size, unless the underlying district's requirements are larger, shall be:
(Section 9.6) 11/14/92

for single-family detached houses.....45,000 square feet
for two-family houses.....67,500 square feet *

5.4.2 Minimum front yard and street line setback for all buildings:

11/17/99

- (a) Twenty-five (25) feet, but no building need provide a street line setback greater than that of the principal buildings on 3 out of 4 adjoining properties.
- (b) In the RB district, 75 feet. In the CB district, where sidewalks exist, the front yard setback shall be at the edge of the sidewalk away from the street line. Where no sidewalk exists, the front yard setback shall be no more than 10 feet from the street line.
- (c) Exceptions to this requirement may be allowed by Special Permit from the Board of Appeals where special circumstances exist.

5.4.3 Minimum lot frontage:

6/12/86 5/4/96

- (a) For single family dwelling.....150 feet
Two family dwelling.....200 feet
Multi-family use.....300 feet 5/4/96
- (b) Notwithstanding the requirements of (a) the following minimum frontage requirements apply:
 - AF-2..... 200 feet 5/4/85
 - AF-4..... 250 feet 10/4/79
 - CB & NB.....75 feet 11/17/99
 - RB..... 200 feet for one- or two-family dwelling 5/5/01
300 feet for multi-family use
- (c) Exceptions to the above requirements may be allowed by Special Permit from the Zoning Board of Appeals where public water and sewer lines are available for residential use.
5/4/96

5.4.4 Minimum side yard setback from property line:

Fifteen (15) feet each side for principal building, ten (10) feet for accessory buildings. Non-residential structures in the GB and CB { 11/17/99 } Districts need not provide a side yard where abutting a non-residential use provided that there is access to the rear of the lot over a drive of at least 12 feet in width. In the NB District, ten (10) feet each side for principal or accessory building { 11/17/99 }. In the RB district, 50 feet each side for residential uses { 5/5/01 }.

5.4.5 Minimum rear yard setback from property line:

Thirty (30) feet principal building, ten (10) feet accessory building.

5.4.6 Maximum building height: Maximum of 28 feet. In the CB { 11/17/99 }, ID and HI { 5/5/01 } District, maximum of 36 feet.

5.4.7 Minimum floor area:

For each multi-family dwelling unit no less than 500 s.f. of living space, exclusive of basements and areas with less than six square feet of ceiling space, porches, terraces and the like. Relief may be granted by Special Permit from the Zoning Board of Appeals.

6.1 Sign Requirements

6/16/73

6.1.1 Off-Premises Signs.

Billboards or signs whose content does not relate exclusively to the premises on which they are located, or to products, accommodations or services or activities on those premises shall be allowed only in LB, GB, and ID Districts; provided, however, that any such off-premises sign shall not exceed 100 square feet in sign area and six feet in height, shall not be located upon the roof of any building, and in the event that such sign exceeds 32 square feet of sign area, shall not be located within 50 feet of any public way. If required, permits must be obtained from the Outdoor Advertising Authority.

6.1.2 On-Premises Signs.

Signs whose content relates exclusively to the premises on which they are located, or to products, accommodations, services or activities on those premises shall be allowed, subject to the following:

- (a) Permitted on any premises are unlighted directional signs of 2 square feet or smaller, or subsidiary signs such as travel, club and credit card signs if incorporated within an approved on-premise sign framework.
- (b) On any premises there shall not be more than one free standing sign, plus not more than one building sign per business or other enterprise.
- (c) In a Residential District or Agricultural District, no sign shall exceed four square feet. In all other districts, signs shall not exceed 32 square feet. However, signs of larger areas may be allowed in any district on Special Permit from the Zoning Board of Appeals.

6.1.3 Sign Prohibitions.

No sign shall flash or move, or cause glare on any public way or adjoining property; or be illuminated between the hours of 11:00 P.M. and 7:00 A.M. unless relating to an establishment open during those hours. No building sign shall project above the roof.

6.2 Parking and Loading Requirements

6/16/73

6.2.1 All parking demand created by new structures or uses, additions to existing structures or uses, and change of use in existing structure shall be accommodated on the premises entirely off-street. At least the following shall be provided unless the Board of Appeals allows a reduction upon their determination that a lesser amount will satisfy all parking demand owing to particular circumstances:

One and a half parking spaces per dwelling unit, plus one space per employee, plus one space per 175 square feet of retail or office floor space, plus one space per motel, hotel or lodging house { 11/17/99 } unit, plus one space per four seats in a restaurant, theater or such. In the CB District, retail, office, restaurant, theater and such uses are not required to provide off-street customer parking. { 11/17/99 }.

In the RB district, more than 25 spaces or parking to the front of the principal building may be allowed by Special Permit from the Board of Appeals. 5/1/01

6.2.2 Parking areas for six or more cars shall be so designed that their use does not require backing onto a public way, and shall be screened from any abutting residential use by densely planted shrubs.

- 6.2.3 Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or uses, additions to existing structures or uses, or change of use. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way, or be parked on a public way while loading, or unloading, or waiting to do so.

6.3 Vehicular Egress/ Access to a Lot.

6/12/86

- 6.3.1 Vehicular egress/access to a lot must be across the front lot line meeting the minimum frontage requirements, except that in particular instances, the Planning Board may issue a Special Permit permitting vehicular egress/access to a lot over a front lot line having less than the required minimum frontage, or over any side lot line or rear lot line.

6.3.2 Common Driveways

5/1/04

6.3.2.1 Purpose

The purpose of Common Driveways is to enhance public safety by reducing congestion entering and leaving roadways, to conserve land and minimize impacts on agricultural and natural resources and to protect the value of real property.

6.3.2.2 Special Permit Required

A special permit from the Planning Board is required.

6.3.2.3 Special Permit Standards

1. Common driveways shall not be used to satisfy lot frontage requirements.
2. The Planning Board may grant a special permit for a common driveway if it determines that the Town's interest is better served by a common driveway than by individual driveways or subdivision approval. Common driveways shall result in better development.
3. The Planning Board may deny a special permit for a common driveway if it determines that access is not feasible across the frontage of each lot proposed to be served by the common driveway.
4. Designs, plans, easements and maintenance agreements for common driveways shall be developed in accordance with Planning Board regulations and shall require a standard of construction, financing and maintenance adequate for the anticipated uses.

- 6.3.3 For residences with a setback of 500 feet or more from an accepted way, a driveway for such residence must have a grade of no greater than 10%, a curve radius not less than 30 feet, a turn around area with a minimum 30 foot turn around radius and that the driveway be no less than 20 feet in width over its entire length.

- 6.3.4 Egress/access to a lot or use must be over land zoned for such use, except that in particular instances, the Planning Board may issue a Special Permit, with appropriate conditions, permitting egress/access over land where the use is not otherwise permitted.

5/4/02

SECTION 7. SPECIAL REGULATIONS

6/16/73

7.1 Trailer Regulations.

6/16/73

- 7.1.1 Mobile Home Parks or Campgrounds are forbidden in all Districts.
- 7.1.2 Mobile Homes for use as residences are forbidden in all Districts.
- 7.1.3 No person shall park, store or occupy a trailer for living or business in the Town Of Montague (EXCEPT):
 - (a) In a garage or other accessory building, or in the rear of a lot owned or occupied by the owner of the trailer, but it shall adhere to the rear yard setback and side yard requirements for accessory buildings in that said District, and its use for living or business purposes is prohibited.
 - (b) As a temporary office incidental to construction or development of the premises on which the trailer is located.
- 7.1.4 The owner of land may permit occupancy of such land by a guest, using a mobile home or camper, for living purposes, for a period not to exceed 30 days in a calendar year, provided that a permit shall first be obtained from the Planning Board under Section 3, above and from the Board of Health if such occupancy exceeds 30 days.
- 7.1.5 Wherever a trailer is parked for occupancy, said trailer must conform with local and state sanitation regulations.
- 7.1.6 The provisions of this section shall not be retroactive to apply to any trailer now (6/16/73) located in the Town of Montague.

7.2.1 General

The removal from any premises of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, or gravel shall be done only in accordance with Sections 7.2.2 through 7.2.6 ** and 9.5.3a **, except that the following shall be exempted from these provisions: (see 9.5.3a)

- (a) The removal of less than 50 cubic yards of such material within any twelve-month period.
- (b) Removal, incidental to construction on the premises, where such removal is explicitly allowed under a currently valid building permit or under agreements governing road construction in an approved subdivision, or as a routine part of normal farming operations.
- (c) Removal on a parcel for which removal was authorized under a legal permit issued prior to adoption of this Section (6/16/73) may continue until the expiration date of said permit, or for eighteen months, whichever is greater, provided that all By-Laws, permits and conditions applicable prior to the adoption of this Section shall be complied with. Subsequent to that date full compliance with all the requirements of Section 7.2 must be met.

7.2.2 Special Permit

Removal shall be allowed only under a special permit issued by the Board of Appeals following written application, a copy of which shall be forwarded to the Conservation Commission. The following shall be conditions for such issuance.

- (a) The application shall be accompanied by a plan showing all manmade features, property lines, names and addresses of all abutter if available from the Assessor's including those across any street or way, topography at 5 foot contour interval of the site and all land within 100 feet of the area from which the above material is to be removed, together with the grades below which finish surface will not lie, and the proposed cover vegetation and trees. If involving more than five (5) acres and/or 10,000 cubic yards of removal, the plan shall be prepared by a Registered Land Surveyor or Engineer.
- (b) A performance bond in the amount determined by the Board of Appeals shall be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of this By-Law and such other conditions as the Board may impose as conditions to the issuance of its permit.
- (c) Before granting a permit, the Board of Appeals shall give due consideration to the location of the proposed earth removal, to the general character of the neighborhood surrounding such location, to the protection of water supply, to the general safety of the public on the public ways in the vicinity, and to the recommendation of the Conservation Commission.
- (d) *Restricted Uses in the (WSP) Water Supply Protection District:* Section 9.5.3(a)
Excavation for removal of earth, sand, gravel and other soils shall not extend closer than six (6) feet above the mean maximum ground water table for the site(see Section 9)

7.2.3 Removal

- (a) Finish grade shall not lie below a level that would reasonably be considered a desirable grade for the later development of the area, or below the grades specified {also see 9.5.3(a)} on the plan accompanying the permit application. The Board of Appeals may specify a base grade below which excavation shall in no event take place.
- (b) Provision shall be made for safe drainage of water, and for prevention of wind and water erosion carrying material onto adjoining properties.
- (c) One hundred (100) foot buffer strip shall be maintained at all boundaries, and not excavated unless at the termination of operations in order to improve overall grading.
- (d) The visibility, sound, and airborne particles from processing equipment shall be screened from adjacent premises through the design and location of such equipment, and through the use of natural vegetation planting, overburden piles, and surge piles as screening.
- (e) Dust shall be controlled through oiling or watering of roads.

7.2.4 Restoration

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations or upon completion of removal to the extent covered by the performance bond, that entire area shall be restored as follows:

- (a) All land shall be so graded that no slope exceeds one (1) foot vertical rise in three (3) feet horizontal distance and shall be so graded as to provide safety for drainage without erosion.
- (b) All boulders larger than one-half cubic yard shall be removed or buried, and all tree stumps removed.
- (c) The entire area excepting exposed ledge rock shall be covered with not less than four (4) inches of topsoil, which shall be planted with perennial cover vegetation adequate to prevent soil erosion.

7.2.5 Additional Conditions

The Board of Appeals may set conditions to the above, including but not limited to; duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, routes to be used by hauling vehicles, and trees to be planted.

7.2.6 Renewal or Revocation of Permit

No permit shall be issued under the provisions of Section 7.2 to extend for a term of more than one year, but a permit may be renewed upon application without a public hearing. Prior to renewal, inspection of the premises shall be made by the Building Inspector, or appointed agent of the Zoning Board of Appeals {also see 9.5.3(a)}, to determine that the provisions of the By-Law are being complied with. The Board of Appeals, after hearing and proof of violation of this By-Law shall revoke the permit, after which the operation shall be discontinued and the area restored in accordance with Section 7.2.4.

7.3 Home Occupations

11/15/73

Home occupations shall be permitted provided the following standards are met.

7.3.1

The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.

7.3.2

Floor area equal to no more than (25%) of the floor area of the principal building shall be used for the purpose of the home occupation.

7.3.3

The home occupation shall be accommodated within an existing structure without extension thereof.

7.3.4

Not more than one person not a member of the household shall be employed on the premises of the home occupation.

7.3.5

There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or other variation from the residential character of the principal building other than an unlighted sign not to exceed (2) square feet in area.

7.3.6

No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

7.3.7

Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

7.3.8

Parking generated shall be accommodated off-street other than in a required front yard, and shall not occupy more than thirty-five (35%) of lot area.

7.3.9

Applications shall be submitted to the Planning Board for home occupations and the Planning Board shall issue a permit if it finds that the above conditions are met. Said permits may be revoked at any time by the Planning Board, or its agent, if any of the above provided conditions are violated after issuance of the permit. Said permit shall not be transferable between persons or property locations.

It is the intent of this Section that home occupations are to be defined solely by the standards listed above, and not by any particular use.

7.3.10

In the event that any person is unable to obtain a permit for a home occupation as defined above because of a failure or inability to meet any one or more of the standards contained in Sections 7.3.1 through 7.3.8, the Zoning Board of Appeals may grant a special permit to such person for such use, subject to the provisions of Section 5.2 of this By-Law.

7.4 Accessory Apartments

5/4/96

*A separate living space within an owner-occupied single-family dwelling. The space shall be considered an accessory apartment and shall not be considered a separate dwelling unit if:

- the space is less than 700 square feet in area;
- the space contains only one bedroom; and,
- the space is smaller in floor area than the remainder of the house.* {from Section 2. Definitions}

In a single-family dwelling, one accessory apartment may be allowed by special permit from the Zoning Board of Appeals provided the following standards are met:

7.4.1

The single-family home shall have been in existence for at least one (1) year at the time of application for the accessory apartment.

7.4.2

The space designated as the accessory apartment shall be designed so that it may easily revert to the pre-existing single-family dwelling use.

7.4.3

Any exterior changes shall be consistent with, and not adversely affect, the character of the neighborhood.

7.4.4

Adequate provision shall be made to accommodate the off-street parking of motor vehicles in such a fashion as is consistent with the character of the neighborhood.

7.4.5

Such special permit, when granted, shall be recorded at the Registry of Deeds; and said special permit shall be allowed only so long as the owner/applicant shall own the premises. Said special permit use shall lapse upon transfer of the premises or when the owner/applicant no longer occupies the premises.

7.5.1 Purpose.

The Town of Montague seeks to allow telecommunication and wireless services with minimal effect to the public health, safety and general welfare and to minimize the visual impact of such facilities.

7.5.2 General Provisions.

Telecommunication Facilities may be allowed by Special Permit from the Board of Appeals pursuant to Section 5.2, Section 7.5 and Section 8.5. Conditions shall maximize the shared use of any new or existing structures to minimize the required number of such facilities; and shall minimizing adverse visual impacts through careful design, siting, and screening. No Facility shall be located in a (RS) Residential District. (see: Section 2. Definitions)

7.5.3 Conditions. The following conditions shall apply:

- (a) To the maximum extent possible, all service providers shall co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this condition is to reduce the number of towers located within the Town.
- (b) No Facility, shall exceed 200 feet in height as measured from the mean finished grade at the facility base. Exterior lighting of the tower and accessory structures shall be prohibited.
- (c) New towers shall be free-standing monopoles.
- (d) Facilities shall not be located within 1500 feet of the peak of a significant hill or located in such a way as to adversely impact the view of a significant hill in the Town.
- (e) Siting shall be such that the view of the Facility and tower shall be as limited as possible when viewed off site.
- (f) No tower, inclusive of any attachments, shall be erected nearer to any property line than a distance equal to 125% of its vertical height.
- (g) Facilities shall be suitably screened from abutters and residential neighborhoods.
- (h) Fencing shall be provided to control access to Telecommunication Facilities and shall be compatible with the scenic character of the neighborhood and landscape.
- (i) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (j) All Facilities shall be painted, or otherwise colored, so that they will blend in with the surrounding landscape or the structure on which they are located. A different coloring scheme shall be used below and above the tree or building line.
- (k) There shall be no storage of vehicles on the site or exterior storage of equipment on the site.
- (l) To the extent feasible, all network interconnections and power lines, to and from the Facility, shall be via underground lines.

7.5.4 Additional Permit Conditions

The Board of Appeals may require additional conditions or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Zoning By-laws.

All Facilities, attachments, and accessory structures which have not been used for a period of one (1) year shall be dismantled and removed at the owner's expense. Such expense shall be secured with a performance guarantee in an amount determined by the Board of Appeals and posted in the name of the Town.

(a) Small Business Uses

In the NB District, business uses are allowed subject to the following standards:

1. The size of commercial uses shall not exceed 1000 square feet.
2. Hours of retail operation are limited to the period between 7 a.m. and 9 p.m. Hours of non-retail operation, if wholly contained within the building premises, may extend beyond the hours of retail operation if the activity has no impact on adjoining residential uses or buildings.
3. Exterior lighting and signs may not be illuminated, except for safety, beyond the hours of retail operation. Lighting may not project beyond the sidewalk or roadway immediately in front of the business
4. Noise, vibration, heat, smoke, dust, strong or unhealthy odors, or air pollutants shall be wholly contained within the premises.
5. Projected traffic shall not adversely impact the surrounding neighborhood.
6. Exterior changes, including but not limited to landscaping and facades, shall be consistent with the surrounding neighborhood.

In the instance of failure or inability to meet one or more of the standards in section (a) above, the Zoning Board of Appeals may grant a Special Permit for such use, subject to the provisions of Section 7.6(b).

(b) Special Business Uses

In NB District, the Board of Appeals may grant special permits based upon the following standards:

1. The hours of retail operation shall not adversely impact adjoining residential uses or buildings. Businesses may be granted by special permit hours of retail operation that extend into the period between 9 p.m. and 7 a.m. Hours of non-retail operation, if wholly contained within the building premises, may extend into the period between 9 p.m. and 7 a.m. if the operation has no impact on adjoining residential uses or buildings.
2. Generated noise, vibration, heat, glare (including exterior and interior lighting), smoke, dust, odors and air pollutants shall not adversely impact the surrounding neighborhood.
3. Projected traffic shall not adversely impact the surrounding neighborhood.
4. Exterior changes, including but not limited to landscaping and facades, shall be consistent with, and not adversely impact, the character of the surrounding neighborhood.
5. Multi-family residential uses shall be accompanied by a management plan approved by the Board of Appeals for the dwelling units.

7.7 Self-Service Storage Facility

5/3/03

7.7.1 Purpose

To allow for the limited construction and operation and maintenance of self-service storage facilities in areas where such use is not inconsistent with neighborhood character, and will have minimal impact on public health, safety and welfare, the environment and scenic and historic character.

7.7.2 General Provisions

Environmental Impact and Site Plan Review is required.

7.7.3 Conditions

The following conditions shall apply:

- (a) No activity other than rental of storage units and pick up and deposit of property shall be allowed at a facility, except for accessory or incidental uses required in administration and security of the site. The use of storage units for any purpose other than storage shall be prohibited.
- (b) All goods, products, materials and other objects stored shall be secured inside storage structures. Outdoor storage shall be prohibited.
- (c) The storage of flammable liquids including petroleum products, highly combustible or explosive materials, corrosive or hazardous chemicals shall be prohibited.
- (d) Servicing or repair of motor vehicles, boats, trailers, lawnmowers or any similar equipment shall be specifically prohibited. Storage of motor vehicles, motor boats and similar equipment shall be prohibited in the Water Supply Protection District overlay zone.
- (e) Hours of customer access shall be specified by the Special Permit Granting Authority and limited to minimize impact on neighboring properties and public safety services.
- (f) The site shall be secured by fence or other barrier to prevent unauthorized access. The Special Permit Granting Authority may require additional measures to monitor and limit access and ensure security.
- (g) Self-service storage facilities shall be designed and landscaped so that they are not immediately visible from a public way.
- (h) Adequate parking and unit access shall be provided, consisting of paved lanes and a minimum of three (3) spaces, plus one space for every five (5) individual storage units. If the access lane to the units and between structures accommodates temporary parking without blocking travel in the lane, additional per-unit parking is not required.
- (i) Drainage from impervious surfaces shall be fully accommodated onsite, consistent with good engineering practices.
- (j) The Special Permit Granting Authority shall consider design and appearance of buildings, setbacks, visual impact, lighting, security issues, traffic circulation, consistency with current and abutting land uses and the market demand for self-service storage facilities in determining whether to grant, condition or deny this permit.
- (k) The Special Permit Granting Authority may require additional conditions and set standards for performance and maintenance or vary prescribed conditions upon finding that such action is consistent with accepted engineering and design practices and is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

Back Lot Development

5/3/03

7.8.1 Purpose

The purpose of this section is to promote permanent protection of productive agricultural land by allowing landowners to develop property that is not valuable for agricultural purposes.

7.8.2 Eligibility

Parcels of land in the Agricultural Business District are eligible for development under this section.

7.8.3 Special Permit Required

The Planning Board may grant a Special Permit under this section for development of back lots that do not meet the frontage requirements of the Montague Zoning Bylaws upon finding that the proposed development meets the standards set forth in this section and section 5.2.14 (Agricultural Business District) and is otherwise consistent with the purposes of this section and the Montague Zoning Bylaws.

7.8.4 Access

Back lots shall have access to a public way or a “way in existence” as defined by Chapter 41, Section 81L, “subdivision”, (c), via driveways that are designed to standards adequate to ensure safe access for construction, passenger and emergency vehicles. There shall be no structures located in the driveway.

Up to four (4) back lots may share a driveway pursuant to a Special Permit under this section and Section 6.3 of the Montague Zoning Bylaws. Shared driveways shall meet all standards for Common Driveways under the Montague Zoning Bylaws and regulations of the Planning Board.

Access driveways may be incorporated into back lots or structured as legal rights-of-way across land of others. Planning Board approval of legal documents creating rights-of-way is required.

Access driveways may not be located within 250 feet of another access driveway to a back lot developed under this bylaw.

7.8.5 Dimensional Requirements

Minimum lot size (not including the access driveway)	Same as underlying district
Minimum lot frontage	0
Maximum lot frontage	50 feet
Minimum street line setback	200 feet
Minimum front, side and rear yard setbacks	Same as underlying district. In addition, residential uses shall be set back 100 feet from active farming operations

7.8.6 Siting of dwelling units and drives

- (1) Back lots shall be located on land that due to soils, topography, location, size or other factors is unsuitable or undesirable for agricultural use. The burden shall be on the applicant to demonstrate that the land to be developed is not valuable for agricultural purposes.
- (2) Dwelling units shall be integrated into the existing landscape through placement of buildings within woodland along the edges of fields or in locations visually screened by natural vegetation or topography to the maximum extent possible.

- (3) The visual impact of back lots and the traffic impact of access driveways on abutting landowners shall be minimized.
- (4) Significant site features, including water courses, floodplains, wetlands, ponds and other water bodies, scenic views and historic sites shall be preserved.
- (5) The Planning Board may require that building envelopes be designated within individual back lots and shown on plans.

7.8.7 Agricultural land protection requirement

For each back lot allowed by Special Permit, the applicant shall secure permanent protection of a parcel of land that is at least two acres or equal to the area of the back lot, whichever is greater, and each with a minimum of 150 feet of frontage on a public way or a way in existence. The land to be protected shall:

- (1) Be located within the Agricultural Business District
- (2) Be presently and primarily used in producing or raising agricultural, commodities including, but not limited to livestock, poultry, bees, fruits, vegetables, berries, nuts, feed, forage, seed, flowers, sod, greenhouse products and ornamental plants and shrubs
- (3) Have soils classified as agriculturally "prime," "unique" or of "statewide or local importance" by the Natural Resources Conservation Service.
- (4) Be able to be developed for residential purposes under the Montague Zoning Bylaws and all applicable provisions of local, state and federal law.
- (5) Not include any structures or roads except those used for agricultural purposes.

Applicants are encouraged to protect parcels of land that are adjacent to land already protected by an Agricultural Preservation Restriction or Conservation Restriction.

If multiple back lots are proposed, the Planning Board may require that parcels of land protected be contiguous to each other.

Protection of land shall be accomplished by recording at the Franklin County Registry of Deeds or Land Court of a permanent agricultural preservation restriction, approved by the Planning Board, limiting use to agriculture and open space. The restriction shall be enforceable by the Town.

Land permanently protected may be retained by the property owner or conveyed to others for active agricultural use.

The Planning Board may require the submission of a management plan describing how the land will be managed in agricultural or open space use in accordance with best management practices.

7.8.8 Application

Application for a special permit for a Back Lot Development shall be submitted on forms provided by the Planning Board in accordance with the rules and regulations of the Board.

7.8.9 Subdivision

- (a) Back lots with at least 20 feet of frontage
The Planning Board may approve division of back lots with at least 20 feet of frontage on a public way or a way in existence pursuant to MGL Chapter 41, Section 81P and Section 3.2 of the Montague Subdivision Regulations, upon finding that access is adequate for the proposed use.
- (b) Back lots with less than 20 feet of frontage
For back lots with less than 20 feet of frontage on a public way or a way in existence, the applicant may seek (a) Planning Board waiver(s) to divide the lot(s) pursuant to MGL Chapter 41, Section 81-P, 81-R and Section 3.2 of the Montague Subdivision Regulations. The Planning Board shall hold a public hearing pursuant to MGL Chapter 41, Section 81-T on the waiver request; this hearing may be concurrent with the Special Permit hearing. Waivers may be granted upon finding by the Planning Board that access is adequate for the proposed use.

7.8.10 Conditions

The following conditions shall apply to all special permits for back lot developments, in addition to any other conditions imposed by the Planning Board:

- (a) No lot shall be built upon without the provision of potable water and sewage disposal facilities approved by the Board of Health.
- (b) No further subdivision shall occur and the Planning Board shall record such condition on any approved Back Lot Site Plan clearly defining the lots upon which buildings can be placed and noting such condition in any Special Permit granted.
- (c) The access driveway shall provide the only vehicular egress/access to the lots served.
- (d) The special permit shall state that the access driveway is not a private road or a public road and that it does not meet the standards for a Town road.
- (e) The special permit shall state that the access driveway shall not be accepted as a public way and the Town of Montague shall not under any circumstances be held liable for construction, reconstruction, maintenance or snow removal on any access drive.
- (f) The special permit shall state that under no circumstances shall the Town of Montague be held liable in the event that emergency vehicles cannot get to their destination because of improper construction or maintenance of the access drive. It shall be the owners' responsibility to be sure that the driveway is passable for emergency vehicles at all times.
- (g) Each landowner served by the access driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the access drive to which more than one landowner holds a right-of-way.
- (h) Every deed conveying a back lot created under this section shall incorporate by reference the special permit authorizing the lot's creation, and all conditions imposed in said permit.
- (i) No building permit shall be issued for any back lot until (1) a special permit has been granted (2) proof of recording of the special permit and all required documents approved by the Planning Board, including rights of way, agricultural preservation restrictions, documents creating homeowners associations and maintenance agreements at the Franklin County Registry of Deeds is submitted to the Planning Board and the Building Inspector (3) the lot has been legally divided and proof of recording at the Franklin County Registry of Deeds is submitted to the Planning Board and the Building Inspector.

7.9 Solar Energy Installations & Facilities

7.9.1 Purpose

The Town of Montague seeks to allow orderly development of solar energy installations and facilities and to minimize the environmental impact of such facilities.

7.9.2 Accessory Installations, Building-mounted

Rooftop or building mounted solar energy installations are permitted in all zoning districts. The installation shall have an automatic and manual means of shutdown with clear instructional signage.

7.9.3 Accessory Installations, Ground-mounted

Ground-mounted solar energy accessory installations are permitted in all zoning districts, subject to the following requirements:

- (a) All installations shall have an automatic and manual means of shutdown with clear instructional signage.
- (b) The solar installation meets the setback and dimensional requirements of the zone in which it is located.
- (c) The total surface area of all ground-mounted solar installations on the lot shall not exceed:
 - 1. One half of one percent (0.05%) of the minimum-lot area of the underlying district
 - 2. 880 square feet in GB..General Business and HI..Historic Industrial Districts.
 - 3. 2,000 square feet in the ID.. Industrial District.
- (d) Dimensional exceptions may be allowed by Special Permit from the Board of Appeals.

7.9.4 Solar Energy Facilities

Solar Energy Facilities are allowed in the ID..Industrial Districts and are permitted in the HI..Historic Industrial, RE..Recreation Education, and UN..Unrestricted Districts by Special Permit, subject to the following requirements:

- (a) Conditions of Approval:
 - 1. A plan shall be provided for the general procedures of operation and maintenance of the installation including security measures, maintenance of emergency access and the clear and available means of shutting down the facility in the event of an emergency;
 - 2. A fully inclusive estimate of the costs associated with removal and site restoration, prepared by a qualified engineer;
 - 3. Notice of Public Hearing shall be provided to the utility company that operates the electrical grid where the facility is proposed;
 - 4. Adequate access and parking, shall be provided for service and emergency vehicles;
 - 5. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the facility or as otherwise prescribed by applicable laws, regulations, and bylaws;
 - 6. An 8 foot security fence shall be installed no closer to a property line than the setback required for a principal building. In addition, the site and its fencing shall be screened by buffering vegetation from general view from

the surrounding ground level unless the Board determines that there is no public benefit from such screening;

7. To the extent feasible, all network interconnections and power lines, to and from the facility, shall be via underground lines;
8. Drainage from impervious surfaces shall be fully accommodated onsite;
9. No array shall be floodlit;
10. Owners and successors in title shall provide a satisfactory form of surety, either through escrow account, bond or otherwise, to cover the cost of removal and restoration of the landscape, in an amount determined to be reasonable by the Board, but in no event to exceed more than 125 percent of the cost of removal. Such surety may be waived for municipally or state owned facilities.

(b) On-going Conditions:

1. The most current site plan and project summary which shall include the electrical schematic with the current shut down procedures shall be submitted to the local Fire Department by the owner;
2. Identification of the owner and a responsible person for inquiries throughout the life of the facility shall be provided to the Board, Fire Chief and Police Chief and provide for and post a 24-hour emergency contact phone number.
3. Herbicides may not be used to control vegetation at the solar electric installation;
4. There shall be no exterior storage of equipment or service vehicles on the site;

(c) Decommissioning:

Any facility which has reached the end of its useful life or has been abandoned shall be decommissioned by the owner or operator who shall notify the Board by certified mail of the proposed date of shut down and removal. Decommissioning shall consist of:

1. Physical removal of all panels, structures, equipment, security barriers and transmission lines from the site;
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
3. Stabilization and re-vegetation of the site and erosion prevention measures;
4. The Town shall have the right, upon determination of abandonment, but not the obligation, to claim the financial surety, enter the site and remove the facility in accordance with the requirements of this section.
5. All facilities, attachments, and accessory structures which have not been used for a period of one (1) year shall be considered abandoned. The removal expense shall be secured with the performance guarantee.

7.9.5 Additional Conditions

The Board may require additional conditions or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Zoning By-laws.

7.10 Registered Marijuana Dispensaries

7.10.1 Purpose

The purpose of this Section is to provide for the orderly placement of Registered Marijuana Dispensaries (RMDs) in areas where such a facility is not inconsistent with the neighborhood character.

7.10.2 General

RMDs may be allowed by special permit and site plan review from the Board of Appeals pursuant to Section 5.2, Section 7.10, and Section 8.

7.10.3 Standards

- (a) The special permit may be limited to the current applicant and to provide that the permit shall lapse if the applicant ceases operating the RMD or if the applicant's registration with the Massachusetts Department of Public Health expires or is terminated;
- (b) The Board shall consider the design of buildings, setbacks, visual impacts, lighting, security issues, hours of operation, traffic circulation, and consistency with current and abutting land uses;
- (c) The Board may require additional conditions and set standards for performance and maintenance upon finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws;

SECTION 8. ENVIRONMENTAL IMPACT AND SITE PLAN REVIEW 12/4/86 5/6/00

All uses that involve the construction or alteration or change of use of over 5,000 square feet of floor area or the development of over 130,680 square feet (3 acres) of land shall be subject to Environmental Impact and Site Plan Review as outlined in Section 8 of this bylaw. Environmental Impact and Site Plan Review shall be conducted by the Board of Appeals unless otherwise stated.

{Section 5.2(c)}

*All applications for Special Permits and Environmental Impact and Site Plan Review from the Board of Appeals or the Planning Board shall be subject to the procedural requirements established by the respective Board.

The Board of Appeals or Planning Board may determine that the assistance of outside professional expertise is required due to the size, scale or complexity of a given project or its potential impact on the health, safety and welfare of the Town. When outside review is determined to be necessary, the Board may require that the applicant pay all reasonable expenses for this purpose, in accordance with that Board's regulations and M.G.L. Chapter 44 Section 53G.*

{Section 5.2(d)}

8.1 Purpose

12/4/86 5/6/00

The purpose of the Environmental Impact and Site Plan Review process is to provide detailed review of certain uses and structures which have a potential for significant impact on the character and infrastructure of the Town, thereby affecting the public health, safety and general welfare. The Environmental Impact and Site Plan Review is intended to promote and protect the natural, environmental, scenic and aesthetic qualities of the Town of Montague.

8.2 Application Procedure

5/6/00

8.2.1 All uses and structures that require Environmental Impact and Site Plan Review shall be subject to the procedures and standards set forth in this section.

8.2.2 Applications shall specifically and thoroughly address all factors for evaluation in Section 8.

Applicants are advised to discuss their projects and submittal requirements with the appropriate Board and staff prior to preparation of an Environmental Impact Statement and Site Plan.

The Board of Appeals or Planning Board, as appropriate, may waive any section or sections of the Impact Statement or Site Plan that it deems inapplicable to the proposed project.

8.2.3 In reviewing applications under this section, the Board of Appeals or Planning Board, as appropriate, may require modifications, conditions and safeguards reasonably related to this section and based upon the purposes stated in Section 8.

8.2.4 The Board of Appeals or Planning Board, as appropriate, shall hold a public hearing, vote and issue decisions on any application filed under this section in accordance with procedures outlined in M.G.L. Chapter 40A, Sections 9 and 11.

8.3 Impact Statement

5/6/00

8.3.1 The applicant shall submit an impact statement, prepared by a registered professional engineer, to explain how the project will promote the environmental health of the community and minimize if not eliminate adverse effects on the natural resources and infrastructure of the Town.

8.3.2 Factors for Evaluation of Impact Statement

In reviewing the statement, the Board of Appeals or Planning Board, as appropriate, shall assure:

1. Protection against detrimental or offensive uses by control of glare, noise, heat, smoke, dust, vibration and wastes and the preservation of light and air quality;
2. Preservation of the flow and quality of surface and ground waters, provision of adequate surface water drainage and consideration of the degree to which water is recycled into the ground;
3. Safety and adequacy of on- and off-site vehicular and pedestrian movement;
4. Preservation or promotion of wildlife refuges and habitats, historic sites, unique geological, botanical and archeological features, existing or potential trails and access to open space areas;
5. Consideration of the impact of the project on Town infrastructure and services

8.4 Site Plan

5/6/00

8.4.1 The applicant shall submit a site plan prepared by a registered professional engineer, and if applicable, a building plan, to enable the Board of Appeals or Planning Board, as appropriate, to determine if the project will promote the orderly development of infrastructure and the natural, scenic and aesthetic qualities of the Town.

8.4.2 Factors for Evaluation of Site Plan.

In reviewing the Site Plan, the Board of Appeals or Planning Board, as appropriate, shall assure that the design is adequate and the following factors are appropriately addressed:

1. Building design
2. Building location and its relationship to the site and adjoining area.
3. Lot coverage
4. Landscaping and site treatment
5. Traffic capacity and safety, parking and pedestrian access
6. Surface water drainage
7. Utility services and proposed connections
8. Exterior lighting and signage
9. On-site waste disposal

The following materials shall be submitted with the Special Permit application *for Telecommunication Facilities*.

1. Site Plan shall be prepared by a registered engineer. The plan shall include four (4) view lines in a one (1) mile radius from the proposed site, shown beginning at True North and continuing clockwise at ninety (90) degree intervals. In addition the applicant shall set a balloon at the location and height of proposed towers.
2. A report from a registered engineer shall:
 - a. demonstrate that the facility complies with all applicable standards of the State and Federal governments;
 - b. describe the capacity of the tower or facility including the number and type of transmitter/receivers that it can accommodate;
 - c. describes the planned layout of all facilities in Montague and abutting Towns;
 - d. describes all accessory structures to be constructed on site.
3. A copy of the requests made by the applicant to the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission, including responses from those agencies, demonstrating compliance with applicable regulations related to the facility.
4. A locus map at an appropriate scale showing all buildings within 500 feet of the proposed facility.
5. A copy of the co-location agreements.
6. Independent verification of any materials or data submitted as a part of an application to the Zoning Board of Appeals shall be accomplished at the expense of the applicant.

9.1 Purpose

The purpose of the Water Supply Protection District (WSPD) is to protect the public health, safety and welfare by preventing contamination of the surface water and ground water resources providing present and significant potential public water supplies for the Town of Montague, as defined by the map referenced in Section 9.4.1. (see 4.2 map)

9.2 Scope of Authority

The WSPD is an overlay district and shall be superimposed on the other districts established by the Zoning Bylaw. All uses, dimensional requirements and other provisions of the Town of Montague Zoning Bylaw applicable to such underlying districts shall remain in force and effect, except that where the WSPD imposes greater or additional restrictions and requirements, such restrictions or requirements shall prevail. Any uses not permitted in the underlying districts shall remain prohibited.

9.3 Definitions**Aquifer -**

Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

Aquifer Recharge Area -

Any area determined by a hydrological study to be of porous, permeable geologic deposits, especially, but not exclusively, deposits of stratified sand and gravel, through which water from any surface drains into an aquifer, and which includes any wetland or body of surface water surrounded by or adjacent to any such area.

Ground Water -

All water found beneath the surface of the ground.

Hazardous Material -

Any substance or combination of substances which, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of into or on any land or water in this town. Any substance designated a hazardous waste by the U.S. Environmental Protection Agency under 40 CFR 261 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C shall also be deemed a hazardous material for the purposes of this bylaw.

Impervious Surfaces -

Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Interim Wellhead Protection Area -

The area encompassed by a 2640 foot radius from a public water supply well for which a hydrological study has not been done.

Leachable Wastes -

Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

Water Supply Protection District - The areas which are within either:

- 1) - the Aquifer Recharge Area, for public water supply wells for which a hydrological study has been done; or,
- 2) - the Interim Wellhead Protection Area, for public water supply wells for which a hydrological study has not been done.

9.4 District Delineation

9.4.1 Boundaries (see 4.2)

The WSPD is defined as all those areas delineated on the Montague Zoning Map, which shall be on file in the Town Clerk's Office. This map is hereby appended to and made an official part of this Zoning Bylaw.

9.5 Use Regulations

9.5.1 Uses Prohibited in the entire WSPD

The following uses are prohibited in the entire WSPD:

- (a) Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity or in amounts exceeding the minimum threshold amount requiring compliance with Massachusetts Department of Environmental Protection Hazardous Waste Regulation 310 CMR 30. These uses include, but are not limited to:
 - dry cleaning
 - metal plating, finishing or polishing
 - chemical or bacteriological manufacturing
 - electronic circuit assembly
 - photographic processing
 - wood preserving
 - furniture stripping
 - printing
 - auto body repair
 - machine shops
- (b) Business and industrial uses, not agricultural, which involve the on-site disposal of hazardous wastes from operations.
- (c) Motor vehicle gasoline sales.
- (d) Commercial and self-service laundries, unless connected to municipal sewer lines.
- (e) Sanitary landfills, dumps, septage lagoons, wastewater treatment facilities for municipal or industrial wastes, junk and salvage yards.
- (f) Disposal of liquid or leachable wastes, except for:
 - 1) residential subsurface waste disposal systems;
 - 2) normal agricultural operations; and
 - 3) business or industrial uses which involve the on-site disposal of wastes from personal hygiene and food preparation for patrons and employees.
- (g) Underground storage of oil, gasoline, or other petroleum products excluding liquified petroleum gas. Underground storage of any other hazardous materials.
- (h) Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- (i) Disposal of snow from outside the WSPD.
- (j) The use of septic system cleaners.

9.5.2 Special Permit Uses

The Planning Board may grant Special Permits for the following uses within WSPD according to the procedures specified in Section **9.7 Uses by Special Permit:**

- (a) The rendering impervious of more than 20% of the area of any single lot.
- (b) Any use retaining less than 50% of the lot area, regardless of size, in its natural vegetative state with no more than minor removal of existing trees and vegetation.
- (c) {deleted} 5/6/00
- (d) Trucking or bus terminals.
- (e) Commercial car and other motor vehicle washes.
- (f) Commercial motor vehicle, airplane or boat repair.

9.5.3 Restricted Uses

The following uses are allowed in all zones of the WSPD if in compliance with the stated restrictions and if permitted in the underlying zone:

- (a) Excavation for removal of earth, sand, gravel and other soils pursuant to **Section 7.2 Earth Removal Regulations** shall not extend closer than six (6) feet above the mean maximum ground water table for the site. This restriction shall not apply to excavations incidental to the permitted uses, including but not limited to, providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits, or on-site sewage disposal.

The owner of the excavation enterprise shall engage a registered professional engineer to determine the mean maximum ground water table for the site. The engineer's report shall include a map of the site detailing the mean maximum groundwater table elevations. The report, stamped, sealed, and signed by the engineer, shall be filed prior to the removal of any materials with the Building Inspector and the Board of Health.

Existing permitted excavation enterprises shall file such a report within 180 days of the passage of this by-law.

Between March 1 and May 30 of each year of operation of the excavation enterprise, the owner shall employ a registered professional engineer to do a site inspection and issue a certified report concerning the maximum depth of removal or excavation relative to the mean maximum ground water table. The report, stamped, sealed, and signed by the engineer, shall be filed within 30 days of the site inspection with the Building Inspector and the Board of Health.

The Building Inspector and a representative of the Board of Health shall accompany the engineer during the site inspection.

- (b) The use of sodium chloride and other deicing materials for ice control shall be minimized, consistent with public highway safety requirements.
- (c) Fertilizers, pesticides, herbicides, and other leachable materials shall not be used in amounts which result in groundwater contamination levels exceeding Massachusetts Drinking Water Standards.

- (d) Above-ground storage tanks for oil, gasoline, or other petroleum products, or for other hazardous materials, shall be placed on an impermeable surface, diked to 110% of the capacity of the tank, to prevent spills or leaks from reaching the groundwater. Floor faults shall be plugged to prevent discharges or leaks. No floor drains shall be allowed, only sump pumps to allow for pumped removal of any spilled materials into a contained and impermeable vessel for removal purposes.
- (e) Any run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by owner.
- (f) Where the premises are partially outside the WSPD, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

9.6 Area Regulations

In areas within the WSPD which are not served by municipal sewerage systems, the minimum allowable lot size, unless the underlying district's requirements are larger, shall be:

for single-family detached houses, 45,000 square feet;
for two-family houses, 67,500 square feet.

9.7 Uses by Special Permit

9.7.1 Conditions

Any use listed in Section 9.5.2 Special Permit Uses shall be allowed only by a Special Permit granted by the Planning Board.

- (a) The Planning Board may grant the required Special Permit only upon finding that the proposed use meets the following standards and those specified in Section 8 Environmental Impact and Site Plan Review of this by-law. The proposed use must:
 - 1) in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water available in the WSPD, and;
 - 2) be designed to minimize disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- (b) If, in the Planning Board's opinion, an independent engineering review by a third party is needed, the proponent requesting the Special Permit shall pay the costs of such a review.

9.7.2 Required plan to be submitted for Special Permit in the WSPD

In order to be considered for a Special Permit in the WSPD, the applicant must submit a plan, prepared by a certified, registered engineer, for the intended use. The plan submitted shall at a minimum include the following information where pertinent.

- (a) A complete list of the chemicals, pesticides, fuels, and other potentially hazardous materials to be used, stored, or generated on the premises in quantities greater than those associated with normal household use.

- (b) Those businesses using, storing, or generating such hazardous materials shall file a hazardous materials management plan with the Planning Board and Board of Health which shall include:
 - 1) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
 - 2) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
 - 3) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.
- (c) Drainage recharge features and provisions to prevent loss of recharge.
- (d) Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

9.7.3

The ZBA shall consider the standards listed in 9.7.1a, 1 & 2 for any uses requiring a Special Permit from the ZBA within the WSPD district.

9.8 Non-conforming Uses

Non-conforming uses which were lawfully existing, begun, or in receipt of a building or special permit prior to the first publication of notice of public hearing (June 3, 1991) for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in Section 5.1 Existing Uses, Structures and Lots, provided that there is finding by the ZBA that such change does not increase the danger of ground water pollution from such use.